

Notice of Allowability

Application No.

10/624,659

Examiner

Amelia A. Owens

Applicant(s)

DRUZGALA ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 11, 2005.
2. ☒ The allowed claim(s) is/are 3, 4, 7, 8, 11-16.
3. ☒ The drawings filed on 21 July 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

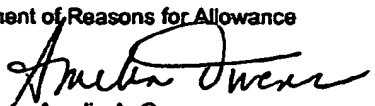
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached.
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |


Amelia A. Owens
Primary Examiner
Art Unit: 1625

RD

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claims 2, 6 and 10 have been canceled.

Claim 3 lines 1-2 replace 'The compound, according to claim 2, wherein said compound has' with ---An inhibitor of HMG-coA reductase having---

Claim 4 lines 1-2 replace 'The compound, according to claim 2, wherein said compound has' with ---An inhibitor of HMG-coA reductase having---

Claim 7 line replace 'The pharmaceutical composition, according to claim 6 wherein said compound has' with ---A pharmaceutical composition wherein said composition comprises a pharmaceutical carrier and a compound having--

Claim 8 line replace 'The pharmaceutical composition, according to claim 6 wherein said compound has' with ---A pharmaceutical composition wherein said composition comprises a pharmaceutical carrier and a compound having--

Claim 11 line 1 replace 'The method, according to claim 10' with ---A method for inhibiting HMG-CoA reductase in an individual in need of such treatment wherein said method comprises administering to said individual a compound---

Claim 12 line 1 replace 'The method, according to claim 10' with ---A method for inhibiting HMG-CoA reductase in an individual in need of such treatment wherein said method comprises administering to said individual a compound---

Claim 13 line 1 replace 'claim 10' with ---claim 11---

Claim 14 line 1 replace 'claim 10' with ---claim 11---

Please add the following claims:

---Claim 15. The method, according to claim 12, wherein the individual is a human.

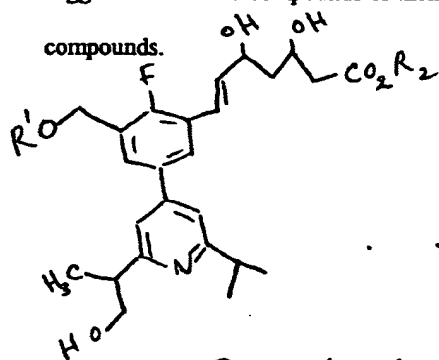
Art Unit: 1625

Claim 16. The method, according to claim 12, wherein said method is used to lower cholesterol levels.-----

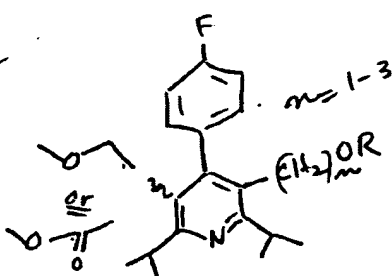
The change was made to obviate potential 35 USC 112 rejection. Note that the variables n and R have two (2) different meanings depending on the formula of the compound. For example, $n=1-3$ and $n=0-3$. This is confusing when present in the same claim.

REASONS FOR ALLOWANCE

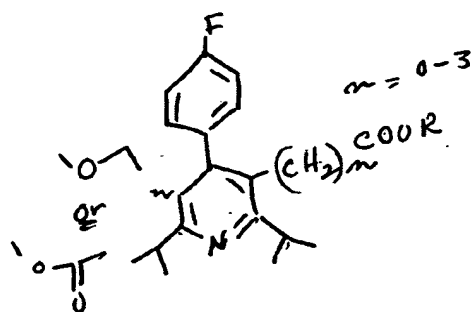
The following is an examiner's statement of reasons for allowance: The prior art neither teaches nor suggests the ^{claimed} ~~claimed~~ compounds or their use. Compounds of formula I are taught which differ from the claimed compounds.



USP 5,849,749

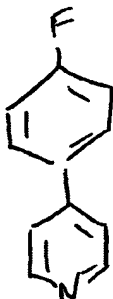


Applicant



Applicant

The compounds have HMG-coA reductase activity. Therefore, compounds having the basic structure



are known to have HMG-coA reductase activity.

Claims 3,4,7,8,11-16 are allowed.

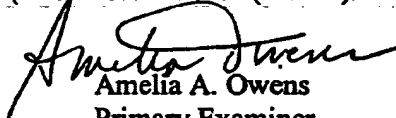
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amelia A. Owens whose telephone number is 571-272-0690. The examiner can normally be reached on Monday - Friday from 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on 571-272-0562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Amelia A. Owens
Primary Examiner
Art Unit 1625